APPEAL NO. 020704
FILED MAY 7, 2002

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing (CCH) was held on February 21, 2002. He found that the respondent (claimant) sustained an injury in the course and scope of employment on _____; gave timely notice of her injury to her employer; and had disability from August 21 through 28, 2001; on October 23, 2001; and from November 4, 2001, to the date of the CCH.

The appellant (carrier) argues that injuries from the claimant's slip and fall are not compensable because she was only walking when she fell. The carrier also argues that although she gave notice to her employer that day, she did not specifically identify her knees as injured and that notice was therefore untimely. The claimant responds that the decision should be affirmed.

DECISION

We affirm the hearing officer's decision.

The claimant was working on _____, as a medical records clerk when she slipped and fell on the tile floor, ending up in an cross-legged position. Several witnesses either saw or heard the fall or saw her in the seated position.

A few days later, her knees began to hurt, she got worse as the weeks went by, and she eventually had to perform her job in a wheelchair as an accommodation by the employer. The claimant sought medical treatment at the end of August and had an MRI. She missed some time in August but had returned to sedentary work, pending surgery for bilateral torn menisci in her knees and anterior cruciate ligament (ACL) damage as well. Her doctor had taken her off work again on November 4, 2001, but she worked from home, with a loss of some pay.

The claimant promptly notified her employer of her slip and fall in a written report. She listed her ankle, buttocks, and lower back as hurt at that time. She said, however, that she complained to a supervisor of pain in her knees and legs after the fall.

OCCURRENCE OF AN INJURY

The hearing officer did not err in finding that the claimant's injury was compensable. The Appeals Panel has rejected similar arguments before. Texas Workers' Compensation Commission Appeal No. 951576, decided November 9, 1995. Whether the claimant was injured in the course and scope of employment when she fell at work was a fact determination for the hearing officer. *See* Texas Employers Insurance Association v. Page, 553 S.W.2d 98 (Tex. 1977). The compensability of the claimant's slip and fall to the floor of her employer, while she was performing her job, is amply supported by case law

on idiopathic falls, including Garcia v. Texas Indemnity Insurance Company, 209 S.W.2d 333 (Tex. 1948) and General Insurance Corporation v. Wickersham, 235 S.W.2d 215 (Tex. Civ. App.-Fort Worth 1950, writ ref'd n.r.e.).

As we observed in Texas Workers' Compensation Commission Appeal No. 011785, decided September 10, 2001, we reject the contention that a worker who is performing work when injured assumes the further burden of proving that the activity in which he or she was engaged when hurt does not parallel one that could have occurred outside of employment. *See also* Texas Workers' Compensation Commission Appeal No. 990896, decided June 14, 1999 (unpublished). While the carrier repeatedly emphasizes that there was no evidence that the claimant slipped or tripped on anything, we know of no authority, and the carrier cites none, for the proposition that an injured worker must first prove a premises defect in order to claim workers' compensation for physical damage that results from a slip and fall. Texas Workers' Compensation Commission Appeal No. 012376-s, decided November 14, 2001.

We have reviewed the record and are satisfied that it supports the determinations that the claimant sustained a compensable injury and had disability therefrom for the periods of time found by the hearing officer.

NOTICE TO THE EMPLOYER

The hearing officer did not err in finding timely notice of injury. We observe that in Texas Workers' Compensation Commission Appeal No. 93379, decided July 1, 1993, we stated that the "sufficiency and scope of what is notice of injury under the 1989 Act should be liberally determined because the purpose of notice is to allow prompt investigation of facts underlying an injury." *See also* Texas Workers' Compensation Commission Appeal No. 950565, decided May 26, 1995 (unpublished).

Applying the law to the facts herein, we cannot agree that the determination of the hearing officer is not supported by the record.

The decision not being against the great weight and preponderance of the evidence, we affirm the Decision and Order.

The true corporate name of the insurance carrier is **INSURANCE COMPANY OF THE STATE OF PENNSYLVANIA** and the name and address of its registered agent for service of process is

CORPORATION SERVICE COMPANY
800 BRAZOS, SUITE 750, COMMODORE I
AUSTIN, TEXAS 78701.

Susan M. Kelley
Appeals Judge

CONCUR:

Thomas A. Knapp
Appeals Judge

Michael B. McShane
Appeals Judge